

<p style="text-align: right;">Page 49</p> <p>1 fleet would like to have a new condition and value</p> <p>2 survey every two to five years, depending --</p> <p>3 A I don't know what they would like or what they want.</p> <p>4 I'm just saying traditionally most boats go through</p> <p>5 a survey process every two to five years.</p> <p>6 Q Part of the work of Marine Safety Consultants is</p> <p>7 performing condition and value surveys?</p> <p>8 A Yes.</p> <p>9 Q And there are some other marine surveyors in New</p> <p>10 Bedford as well?</p> <p>11 A Throughout New England.</p> <p>12 Q But you guys do a lot of them, fair enough?</p> <p>13 A Well, everybody does a lot of them. There are a lot</p> <p>14 of boats to survey.</p> <p>15 Q Do you know how many times you personally have</p> <p>16 conducted a condition and value survey?</p> <p>17 A On the MY WAY?</p> <p>18 Q Yes.</p> <p>19 A I don't know specifically how many times. I</p> <p>20 haven't --</p> <p>21 Q Have you ever personally performed a condition and</p> <p>22 value survey?</p> <p>23 A Yes.</p> <p>24 Q More than once?</p>	<p style="text-align: right;">Page 51</p> <p>1 opinion, but I have specific memories of having been</p> <p>2 aboard the MY WAY numerous times in the past.</p> <p>3 Q Have you ever done an accident investigation on the</p> <p>4 FISHING VESSEL MY WAY other than in connection with</p> <p>5 Mr. Aguiar?</p> <p>6 A I don't recall if there are any other accidents that</p> <p>7 required investigation. Again I have not done a</p> <p>8 file review for that purpose.</p> <p>9 Q As we sit here today do you have any memory of</p> <p>10 conducting an accident investigation on the MY WAY?</p> <p>11 A No specific memory.</p> <p>12 Q What about a casualty investigation on the MY WAY?</p> <p>13 A I have no specific memory of a specific accident on</p> <p>14 the MY WAY that I would have personally</p> <p>15 investigated.</p> <p>16 Q What about an engine claim or something like that,</p> <p>17 any type of hull claim on the FISHING VESSEL MY WAY?</p> <p>18 A I would have to go through our records and spend</p> <p>19 some time with my survey records to determine</p> <p>20 exactly how many surveys we've conducted, what types</p> <p>21 and when. It would take a few hours to do that.</p> <p>22 Q So your experience with the MY WAY is because you</p> <p>23 know she has been in the New Bedford dragger fleet</p> <p>24 for quite a number of years?</p>
<p style="text-align: right;">Page 50</p> <p>1 A I believe so.</p> <p>2 Q More than three times?</p> <p>3 A If not the entire survey, part of it. It's not</p> <p>4 unusual for me to go aboard when one of the other</p> <p>5 surveyors is conducting a survey to observe their</p> <p>6 work and to help train them and also to maintain</p> <p>7 contact with the boat owners to keep myself familiar</p> <p>8 with a particular vessel so when I review the</p> <p>9 reports from one of the other surveyors, I am</p> <p>10 familiar with the vessel when I read the report.</p> <p>11 Q But in terms of condition and value surveys signed</p> <p>12 by yourself as the marine surveyor, do you know how</p> <p>13 many of those you have done?</p> <p>14 A On the MY WAY?</p> <p>15 Q Yes.</p> <p>16 A I do not. I could probably figure that out, but I</p> <p>17 do not know.</p> <p>18 Q Do you know whether you have done a condition and</p> <p>19 value survey on the MY WAY where you are the</p> <p>20 surveyor who signs off on it?</p> <p>21 A Strictly by myself? I don't remember.</p> <p>22 Q You are the surveyor who signs off on it.</p> <p>23 A I'm almost positive I have, but I did not review any</p> <p>24 condition and value survey files for this, for this</p>	<p style="text-align: right;">Page 52</p> <p>1 A Yes.</p> <p>2 Q More than twenty?</p> <p>3 A I would say twenty would be a good approximation.</p> <p>4 Q And you have seen that boat around down on the</p> <p>5 docks?</p> <p>6 A Yes.</p> <p>7 Q As we sit here today you have no specific memory of</p> <p>8 valuing the boat where you were the individual</p> <p>9 signing off on the survey, correct?</p> <p>10 A No, I do, but I don't know when it was or whether</p> <p>11 there was any other surveyor involved at the time of</p> <p>12 the survey. It's not unusual to have more than one</p> <p>13 surveyor aboard for different reasons.</p> <p>14 Q When was the last time that you were on the MY WAY?</p> <p>15 A Probably a week to ten days ago.</p> <p>16 Q Why were you on there a week to ten days ago?</p> <p>17 A I wanted to go aboard to -- Well, actually it was in</p> <p>18 anticipation, about the time I did the supplemental</p> <p>19 affidavit and I know that the vessel was tied at the</p> <p>20 dock and I wanted to confirm whether or not they had</p> <p>21 the same winch on board and the same pelican hook or</p> <p>22 the same type of pelican hook on board.</p> <p>23 Q How did you know what was on there at the time of</p> <p>24 the accident?</p>



<p style="text-align: right;">Page 53</p> <p>1 A I probably reviewed a survey file to see what winch 2 was on there at the time of the survey at around the 3 time of the accident. 4 Q Do you know what the date of that survey was? 5 A No. 6 Q What did you determine? 7 A That when I went aboard the vessel and looked at the 8 photograph of the survey around that period of time, 9 that the winch on the vessel as it exists today 10 appears to be the same winch that was on there at 11 the time of Mr. Aguiar's incident. 12 Q Did you perform any testing? 13 A No. 14 Q Did you determine the model number of the winch? 15 A I determined the make, and I think I know the model. 16 The model was fairly well worn on the name plate 17 box. A Marco winch. 18 Q Do you know what the model number was? 19 A No. 20 Q Did you write it down anywhere? 21 A Marco single drum hydraulically operated winch with 22 a manual brake and a control lever and a gypsy head 23 on it. 24 Q How old was the winch? When did they manufacture</p>	<p style="text-align: right;">Page 55</p> <p>1 Q Who was on the boat? 2 A The current owner. That would be Carlos Raphael. 3 Q Were you performing condition and value surveys for 4 him? 5 A No. 6 Q Do you perform condition and value surveys for him 7 or his corporations? 8 A If he requests a vessel to be surveyed, I would. 9 Q Have you historically? 10 A Yes. 11 Q Why were you there at the same time he was there? 12 A Because I asked permission to go aboard and I called 13 him to ask permission to go aboard. I try not to go 14 aboard anybody's boat without permission. 15 Q Was the engine on? 16 A No, the vessel was idle at the dock, and my 17 understanding is there is a sales transaction in 18 process so the vessel is not in operation. 19 Q So you just went down, looked at the winch, looked 20 at the gallus frame, pelican hook, the door, and 21 that was pretty much it? 22 A Yes. 23 Q When was the last time before that that you were on 24 the FISHING VESSEL MY WAY?</p>
<p style="text-align: right;">Page 54</p> <p>1 that type of winch? 2 A I don't know when they started manufacturing this 3 model. It was probably in the eighties or nineties, 4 somewhere in that time frame. I haven't researched 5 that. 6 Q Did you operate the winch? 7 A No. 8 Q What else did you do this last time that you were on 9 the FISHING VESSEL MY WAY? 10 A Walked around the deck, looked at the winch, looked 11 at the pelican hook, looked at the doors. 12 Q Do you know what type of wire was on the winch, the 13 main wire? 14 A It was a stranded wire rope. I didn't pay any 15 particular attention to the size or any of those 16 details. I observed it's a wire that is on the 17 winch like all draggers have similar wires on the 18 winches. 19 Q What else did you look at, pelican hook? 20 A Pelican hook, the door, the area around where the 21 door comes up and the work deck of the vessel. 22 Q Was there anyone on the boat at the time that you 23 got on it? 24 A Yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 A Probably has wintertime. 2 Q Why were you on the FISHING VESSEL MY WAY last 3 winter? 4 A I don't recall if it was to do a review of a survey 5 that one of the other surveyors may have done or for 6 the purpose of looking at the pelican hook. There 7 is a lot of times I'm aboard the vessels, sometimes 8 for no specific purpose except to say hello to the 9 boat owners if I see them working. 10 Q Are you friendly with Mr. Lima or Mr. Cura? 11 A On a professional level from the standpoint if I see 12 them, I'll say hello and ask them how they are 13 doing. 14 Q Would you recognize them on the street? 15 A Not unless I saw them on their boat and I tie them 16 together because they were on that boat. 17 Q You believe you were last on the MY WAY other than 18 this most recent time was sometime in February? 19 A No, I said during the winter. I don't know when it 20 was. I would have to review survey files to 21 determine the last time exactly. 22 Q Did you perform the last condition and value survey 23 on the FISHING VESSEL MY WAY? 24 A I don't think so.</p>

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<p style="text-align: right;">Page 57</p> <p>1 Q Why would you have to look at a survey file in order 2 to determine when you were last on it?</p> <p>3 A I go aboard the vessel a number of times, just 4 sometimes to say hello. If another surveyor is on 5 board, I will go on board to see how he was doing.</p> <p>6 Q Do you remember doing that with respect to the MY 7 WAY?</p> <p>8 A I think I did, but for the purpose of today and 9 being asked these questions I haven't reviewed my 10 survey records or specific survey file to see when 11 the last time I was on board.</p> <p>12 Q You don't know the last time Marine Safety 13 Consultants performed a condition and value survey?</p> <p>14 A Not without doing a file review to answer that 15 question.</p> <p>16 Q Do you have any idea off the top of your head?</p> <p>17 A Within the last year somebody from our office may 18 have done a survey on that vessel, last year or two.</p> <p>19 Q Did Marine Safety Consultants perform a survey in 20 connection with this most recent sale?</p> <p>21 A No.</p> <p>22 Q Have you ever operated or seen the winch, the main 23 winches on the FISHING VESSEL MY WAY operating?</p> <p>24 A Not that I recall, not those -- I may have or not</p>	<p style="text-align: right;">Page 59</p> <p>1 during fishing operations, whether it's an actual 2 voyage or not?</p> <p>3 A I was when I was a coast guard officer, and I have 4 been aboard fishing vessels under way at sea trials 5 after repairs or for testing purposes.</p> <p>6 Q What specific types of testing?</p> <p>7 A Would be sea trials to determine the vessel's 8 operating circumstances, making sure that all 9 machinery was operating smoothly and properly for, 10 either after repairs or prior to a sail or after 11 construction, new construction sea trials, that 12 would be common.</p> <p>13 Q When was the last time before -- You mentioned that 14 you think sometime this winter you may have been on 15 the MY WAY in connection with a condition and value 16 survey which was being performed by Marine Safety 17 Consultants, is that correct?</p> <p>18 A I'm sorry, repeat that?</p> <p>19 Q You think you were probably on the MY WAY, you were 20 on the MY WAY about a week or two ago?</p> <p>21 A Yes.</p> <p>22 Q That was, the vessel was tied up at Carlos Raphael's 23 dock?</p> <p>24 A Actually tied up at the City of New Bedford dock</p>
<p style="text-align: right;">Page 58</p> <p>1 have. I have seen winches operated at the dock. 2 Whether or not it's those winches, I don't recall.</p> <p>3 Q As you sit here today you have no memory of ever 4 observing the main winches on the FISHING VESSEL MY 5 WAY operate, is that correct?</p> <p>6 A That's correct. Winches of that type and that model 7 but not necessarily that specific winch. I may 8 have, I don't recall.</p> <p>9 Q It's a Marco winch?</p> <p>10 A Marco single drum winch, hydraulic power.</p> <p>11 Q Do you know what model it was?</p> <p>12 A No, I don't. I could find out, but I don't know the 13 model number.</p> <p>14 Q Have you ever seen those winches operate?</p> <p>15 A Yes.</p> <p>16 Q On the dock?</p> <p>17 A Yes.</p> <p>18 Q Have you ever seen those winches, Marco, any type of 19 Marco winch operate while the vessel was at sea?</p> <p>20 A No.</p> <p>21 Q Have you ever been on a commercial fishing vessel 22 during commercial fishing operations at sea?</p> <p>23 A Not during a fishing voyage, no, sir.</p> <p>24 Q Have you ever been on a commercial fishing vessel</p>	<p style="text-align: right;">Page 60</p> <p>1 called Leonard's Wharf.</p> <p>2 Q You were on the boat then?</p> <p>3 A Yes.</p> <p>4 Q And then the time before that you think was sometime 5 this past winter of 2006?</p> <p>6 A Yes, or 2005, somewhere in there.</p> <p>7 Q And that was in connection with a condition and 8 value survey which Marine Safety Consultants was 9 performing, correct?</p> <p>10 A I believe so.</p> <p>11 Q Then when is the time before that that you were on 12 the MY WAY?</p> <p>13 A Again I don't recall. There may have been an 14 official reason to be aboard, there may have been an 15 unofficial reason. I don't recall the specific time 16 I was aboard without doing a file review to come up 17 with dates and times and locations.</p> <p>18 Q What's your best memory?</p> <p>19 A My best memory is within the last two years I have 20 probably been aboard that vessel at least four 21 times.</p> <p>22 Q For what purpose?</p> <p>23 A Either to follow up on a survey or to do a survey or 24 to meet with Mr. Raphael or to say hello to the boat</p>

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